



General Assembly

January Session, 2009

Raised Bill No. 6670

LCO No. 4802

04802_____JUD

Referred to Committee on Judiciary

Introduced by:
(JUD)

***AN ACT CONCERNING THE RIGHTS OF CRIME VICTIMS AND THE
DUTIES OF THE OFFICE OF THE VICTIM ADVOCATE.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 54-208 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2009*):

3 (a) If a person is injured or killed as provided in section 54-209, the
4 Office of Victim Services or, on review, a victim compensation
5 commissioner may order the payment of compensation in accordance
6 with the provisions of sections 54-201 to 54-233, inclusive, as amended
7 by this act: (1) To or for the benefit of the injured person; (2) in the case
8 of personal injury of the victim, to any person responsible for the
9 maintenance of the victim who has suffered pecuniary loss as a result
10 of such injury; [or] (3) in the case of death of the victim, to or for the
11 benefit of any one or more of the dependents of the victim including
12 any dependent child of a homicide victim who was killed by the other
13 parent or to any person who has suffered pecuniary loss, including but
14 not limited to funeral expenses, as a result of such death; or (4) in the
15 case of the death of the victim, to any funeral director licensed under
16 chapter 385 providing burial services for such victim on behalf of the

17 relatives of the victim.

18 (b) For the purposes of sections 54-201 to 54-233, inclusive, as
19 amended by this act, a person shall be deemed to have intended an act
20 notwithstanding that, by reason of age, insanity, drunkenness or
21 otherwise, he was legally incapable of forming a criminal intent.

22 (c) In determining whether to make an order under this section, the
23 Office of Victim Services or, on review, a victim compensation
24 commissioner shall consider all circumstances determined to be
25 relevant, including but not limited to provocation, consent or any other
26 behavior of the victim which directly or indirectly contributed to such
27 victim's injury or death, the extent of the victim's cooperation in
28 investigating the application and the extent of the victim's cooperation
29 with law enforcement agencies in their efforts to apprehend and
30 prosecute the offender, and any other relevant matters.

31 (d) An order may be made under subdivision (4) of subsection (a) of
32 this section notwithstanding that the relatives of the deceased victim
33 might otherwise be denied compensation pursuant to subsection (c) of
34 this section. Any person seeking such order shall make application in
35 accordance with the provisions of sections 54-201 to 54-233, inclusive,
36 as amended by this act, provided the household income of such person
37 shall not exceed fifty per cent of the median income in the state. The
38 Office of the Chief Court Administrator shall establish a protocol for
39 the implementation of this subsection.

40 ~~[(d)]~~ (e) An order may be made under this section whether or not
41 any person is prosecuted or convicted of any offense arising out of
42 such act. Upon application made by an appropriate prosecuting
43 authority, the Office of Victim Services or a victim compensation
44 commissioner may suspend making any determination or any
45 proceedings, as the case may be, under sections 54-201 to 54-233,
46 inclusive, as amended by this act, for such period as it deems
47 appropriate on the ground that a prosecution for an offense arising out
48 of such act or omission has been commenced or is imminent.

49 [(e)] (f) In determining the amount of compensation to be allowed,
50 the Office of Victim Services or, on review, a victim compensation
51 commissioner shall take into consideration amounts that the applicant
52 has received or is eligible to receive from any other source or sources,
53 including but not limited to payments from state and municipal
54 agencies, insurance benefits, and workers' compensation awards, as a
55 result of the incident or offense giving rise to the application.

56 [(f)] (g) Payments shall be made in a manner to be determined by
57 the Office of Victim Services, including, but not limited to, lump sum
58 or periodic payments. If an award is not claimed by the applicant
59 within forty-five days after notice of the award, the Office of Victim
60 Services may vacate such award or may order payments from such
61 award to health care providers or victim service providers and vacate
62 any remaining amount of such award.

63 Sec. 2. Section 54-210 of the general statutes is repealed and the
64 following is substituted in lieu thereof (*Effective October 1, 2009*):

65 (a) The Office of Victim Services or a victim compensation
66 commissioner may order the payment of compensation under sections
67 54-201 to 54-233, inclusive, as amended by this act, for: (1) Expenses
68 actually and reasonably incurred as a result of the personal injury or
69 death of the victim, provided coverage for the cost of medical care and
70 treatment of a crime victim who does not have medical insurance or
71 who has exhausted coverage under applicable health insurance
72 policies or Medicaid shall be ordered; (2) loss of earning power as a
73 result of total or partial incapacity of such victim; (3) pecuniary loss to
74 the spouse or dependents of the deceased victim, including zero to one
75 per cent loans of up to one hundred thousand dollars, with repayment
76 beginning five years from the date the loan was awarded, provided the
77 family qualifies for compensation as a result of murder or
78 manslaughter of the victim; (4) pecuniary loss to the relatives or
79 dependents of a deceased victim for attendance at court proceedings
80 with respect to the criminal case of the person or persons charged with

81 committing the crime that resulted in the death of the victim; (5)
 82 expenses incurred by a funeral director licensed under chapter 385 in
 83 providing burial services for a victim on behalf of the relatives of the
 84 victim; and [(5)] (6) any other loss, except as set forth in section 54-211,
 85 as amended by this act, resulting from the personal injury or death of
 86 the victim which the Office of Victim Services or a victim
 87 compensation commissioner, as the case may be, determines to be
 88 reasonable. At the discretion of said office or victim compensation
 89 commissioner, there shall be one hundred dollars deductible from the
 90 total amount determined by said office or victim compensation
 91 commissioner. Loan funds awarded under subdivision (3) of this
 92 subsection shall be used to pay for essential living expenses, directly
 93 resulting from the loss of income provided by the deceased victim, or
 94 preexisting financial obligations that are not otherwise forgiven or
 95 excused. The Office of the Chief Court Administrator shall establish
 96 procedures and forms for the application and repayment of such loans.

97 (b) Payment of compensation under sections 54-201 to 54-233,
 98 inclusive, as amended by this act, may be made to a person who is a
 99 recipient of public assistance or state-administered general assistance
 100 for necessary and reasonable expenses related to injuries resulting
 101 from a crime and not provided for by the income assistance program
 102 in which such person is a participant. Unless required by federal law,
 103 no such payment shall be considered an asset for purposes of
 104 eligibility for such assistance.

105 Sec. 3. Section 54-211 of the general statutes is repealed and the
 106 following is substituted in lieu thereof (*Effective October 1, 2009*):

107 (a) (1) No order for the payment of compensation shall be made
 108 under section 54-210, as amended by this act, unless (A) the
 109 application has been made within two years after the date of the
 110 personal injury or death, (B) the personal injury or death was the result
 111 of an incident or offense listed in section 54-209, and (C) such incident
 112 or offense has been reported to the police within five days of its

113 occurrence or, if the incident or offense could not reasonably have been
114 reported within such period, within five days of the time when a
115 report could reasonably have been made, except that a victim of a
116 sexual assault shall not be ineligible for the payment of compensation
117 by reason of failing to make a report pursuant to this subparagraph if
118 such victim presented himself or herself to a health care facility within
119 seventy-two hours of such sexual assault for examination and
120 collection of evidence of such sexual assault in accordance with the
121 provisions of section 19a-112a. (2) Notwithstanding the provisions of
122 subdivision (1) of this subsection, any person who, before, on or after
123 October 1, 2005, fails to make application for compensation within two
124 years after the date of the personal injury or death as a result of
125 physical, emotional or psychological injuries caused by such personal
126 injury or death may apply for a waiver of such time limitation. The
127 Office of Victim Services, upon a finding of such physical, emotional or
128 psychological injury, may grant such waiver. (3) Notwithstanding the
129 provisions of subdivision (1) of this subsection, any minor who, before,
130 on or after October 1, 2005, fails to make application for compensation
131 within two years after the date of the personal injury or death through
132 no fault of the minor, may apply for a waiver of such time limitation.
133 The Office of Victim Services, upon a finding that such minor is not at
134 fault, may grant such waiver. (4) Notwithstanding the provisions of
135 subdivision (1) of this subsection, a person who is a dependent of a
136 victim may make application for payment of compensation not later
137 than two years from the date that such person discovers or in the
138 exercise of reasonable care should have discovered that the person
139 upon whom the applicant was dependent was a victim or ninety days
140 after May 26, 2000, whichever is later. Such person shall file with such
141 application a statement signed under penalty of false statement setting
142 forth the date when such person discovered that the person upon
143 whom the applicant was dependent was a victim and the
144 circumstances that prevented such person discovering that the person
145 upon whom the applicant was dependent was a victim until more than
146 two years after the date of the incident or offense. There shall be a

147 rebuttable presumption that a person who files such a statement and is
148 otherwise eligible for compensation pursuant to sections 54-201 to 54-
149 233, inclusive, as amended by this act, is entitled to compensation. (5)
150 Any waiver denied by the Office of Victim Services under this
151 subsection may be reviewed by a victim compensation commissioner,
152 provided such request for review is made by the applicant within
153 thirty days from the mailing of the notice of denial by the Office of
154 Victim Services. If a victim compensation commissioner grants such
155 waiver, the commissioner shall refer the application for compensation
156 to the Office of Victim Services for a determination pursuant to section
157 54-205. (6) Notwithstanding the provisions of subdivision (1), (2) or (3)
158 of this subsection, the Office of Victim Services may, for good cause
159 shown and upon a finding of compelling equitable circumstances,
160 waive the time limitations of subdivision (1) of this subsection.

161 (b) No compensation shall be awarded if: (1) The offender is
162 unjustly enriched by the award, provided compensation awarded to a
163 victim which would benefit the offender in a minimal or
164 inconsequential manner shall not be considered unjust enrichment; (2)
165 the victim violated a penal law of this state, which violation caused or
166 contributed to his injuries or death, except as provided in subsection
167 (d) of section 54-208, as amended by this act.

168 (c) No compensation shall be awarded for losses sustained for
169 crimes against property or for noneconomic detriment such as pain
170 and suffering.

171 (d) (1) No compensation shall be awarded for the first hundred
172 dollars of injury sustained and no such compensation shall be in an
173 amount in excess of fifteen thousand dollars except that such
174 compensation to or for the benefit of the dependents of a homicide
175 victim shall be in an amount not to exceed twenty-five thousand
176 dollars. The claims of the dependents of a deceased victim, as provided
177 in section 54-208, as amended by this act, shall be considered
178 derivative of the claim of such victim and the total compensation paid

179 for all claims arising from the death of such victim shall not exceed a
180 maximum of twenty-five thousand dollars.

181 (2) Compensation awarded pursuant to subsection (d) of section 54-
182 208, as amended by this act, shall not exceed four thousand dollars and
183 shall be paid directly to the licensed funeral director.

184 [(2)] (3) Notwithstanding the provisions of subdivision (1) of this
185 subsection, the Office of Victim Services or a victim compensation
186 commissioner may, for good cause shown and upon a finding of
187 compelling equitable circumstances, award compensation in an
188 amount in excess of the maximum amounts set forth in said
189 subdivision.

190 (e) Orders for payment of compensation pursuant to sections 54-201
191 to 54-233, inclusive, as amended by this act, may be made only as to
192 injuries or death resulting from incidents or offenses arising on and
193 after January 1, 1979, except that orders for payment of compensation
194 pursuant to subdivision (3) of subsection (a) of section 54-209 may be
195 made only as to injuries or death resulting from incidents or offenses
196 arising on and after July 1, 1985.

197 (f) Compensation shall be awarded pursuant to sections 54-201 to
198 54-233, inclusive, as amended by this act, for bodily injury or death
199 resulting from a crime which occurs (1) within this state, regardless of
200 the residency of the applicant; (2) outside this state but within the
201 territorial boundaries of the United States, provided the victim, at the
202 time of injury or death, was a resident of this state and the state in
203 which such crime occurred does not have a program for compensation
204 of victims for which such victim is eligible; and (3) outside the
205 territorial boundaries of the United States, provided the applicant is a
206 victim of international terrorism, as defined in Section 2331 of Title 18
207 of the United States Code, and was a resident of this state at the time of
208 injury or death.

209 Sec. 4. Section 1-200 of the general statutes is amended by adding

210 subdivision (12) as follows (*Effective October 1, 2009*):

211 (NEW) (12) "Invasion of personal privacy" means the public
212 disclosure of any matter that (A) would be highly offensive to a
213 reasonable person, and (B) is not of legitimate concern to the public.

214 Sec. 5. Subdivision (2) of subsection (b) of section 1-210 of the
215 general statutes is repealed and the following is substituted in lieu
216 thereof (*Effective October 1, 2009*):

217 (2) Personnel or medical files and [similar files] other files,
218 documents, materials, photographs, audio or visual recordings or
219 tangible objects the disclosure of which would constitute an invasion
220 of personal privacy.

221 Sec. 6. (NEW) (*Effective October 1, 2009*) (a) In addition to any fine,
222 fee or cost that may be imposed pursuant to any provision of the
223 general statutes, the court shall impose a fee of (1) seventy-five dollars
224 on any person eighteen years of age or older who is convicted of a
225 felony or is granted admission to the pretrial program for accelerated
226 rehabilitation under section 54-56e of the general statutes for the
227 commission of a felony, and (2) fifty dollars on any person eighteen
228 years of age or older who is convicted of a misdemeanor or is granted
229 admission to the pretrial program for accelerated rehabilitation under
230 section 54-56e of the general statutes for the commission of a
231 misdemeanor. No fee imposed pursuant to this subsection shall be
232 waived by the court. All fees collected pursuant to this subsection shall
233 be deposited in the victim service advocate program account
234 established under subsection (f) of this section.

235 (b) In addition to any fine, fee or cost that may be imposed pursuant
236 to any provision of the general statutes, the court shall impose a fee of
237 thirty-five dollars on any person fifteen years of age or older but under
238 eighteen years of age who is convicted as delinquent or adjudicated a
239 youthful offender. The fee imposed pursuant to this subsection may be
240 waived by the court if it finds such person is unable to pay such fee

241 and good cause is stated on the record. All fees collected pursuant to
242 this subsection shall be deposited in the victim service advocate
243 program account established under subsection (f) of this section.

244 (c) Any fee collected pursuant to subsection (a) or (b) of this section
245 from a person whose conviction or adjudication is subsequently
246 reversed on appeal shall be refunded by the court to such person.

247 (d) Payment of the fee imposed pursuant to subsection (a) or (b) of
248 this section shall have first priority over the payment of all other fines,
249 fees or costs by the person as a result of such conviction or
250 adjudication, with payment of any financial restitution ordered by the
251 court pursuant to subsection (c) of section 53a-28 of the general
252 statutes having second priority.

253 (e) If any person subject to the fee imposed pursuant to subsection
254 (a) or (b) of this section is sentenced to a term of imprisonment and
255 confined in a correctional facility, the Commissioner of Correction
256 shall deduct from any compensation earned by such person such
257 amount or amounts as necessary to satisfy any unpaid portion of such
258 fee and shall transmit such amount or amounts to the clerk of the court
259 on a monthly basis.

260 (f) There is established a victim service advocate program account
261 which shall be a separate, nonlapsing account within the General
262 Fund. The account shall contain any moneys required by law to be
263 deposited in the account. The funds in the account shall be expended
264 as follows: Ninety-five per cent of the funds shall be allocated to the
265 court-based victim service advocate program of the Office of Victim
266 Services within the Judicial Branch, and five per cent of the funds shall
267 be allocated to the Office of the Victim Advocate unless the governing
268 board established pursuant to subsection (g) of this section allocates
269 funds pursuant to subsection (h) of this section, except that in no event
270 shall the governing board authorize the apportionment of the funds
271 allocated to the Office of the Victim Advocate to another agency. The
272 governing board, upon a majority vote, shall designate a percentage of

273 the funds in the account as a reserve to be used to refund the fee paid
274 pursuant to subsection (a) or (b) of this section by persons whose
275 convictions or adjudications have been reversed on appeal.

276 (g) There is established a Victim Service Advocate Program Fund
277 Governing Board. The board shall consist of the following members:
278 The Victim Advocate, the Chief Court Administrator, the Secretary of
279 the Office of Policy and Management and the Chief State's Attorney, or
280 their designees, and a crime victim appointed by the Governor.
281 Members shall serve for terms of three years or until a successor is
282 appointed, and may serve consecutive terms or be reappointed, as the
283 case may be. Members shall serve without compensation. The
284 governing board shall meet no less than three times a year.

285 (h) The governing board may, by majority vote, allocate funds from
286 the account to Survivors of Homicide, Inc., Connecticut Coalition
287 Against Domestic Violence, Inc., Connecticut Sexual Assault Crisis
288 Services, Inc. and Mothers Against Drunk Driving, Inc., to assist the
289 victim service advocate programs of such organizations. The
290 governing board shall review the allocation of funds of the account to
291 court-based victim service advocate programs throughout the state,
292 the Office of the Victim Advocate and other victim service
293 organizations to which funds have been allocated by the board. The
294 governing board shall submit an annual report to the Governor and
295 the General Assembly, in accordance with section 11-4a of the general
296 statutes, setting forth an accounting of the funds in the account, the
297 allocation of funds from the account, the recipients of the funds and
298 the programs that benefited from the funds.

299 Sec. 7. Subsection (a) of section 54-220 of the general statutes is
300 repealed and the following is substituted in lieu thereof (*Effective*
301 *October 1, 2010*):

302 (a) Victim advocates shall have the following responsibilities and
303 duties: (1) To [provide initial screening of each personal injury case; (2)
304 to] assist victims in the preparation of victim impact statements to be

305 placed in court files; [(3)] (2) to notify victims of their rights and
 306 request that each victim so notified attest to the fact of such notification
 307 of rights on a form developed by the Office of the Chief Court
 308 Administrator, which form shall be signed by the victim advocate and
 309 the victim and be placed in court files and a copy of which form shall
 310 be provided to the victim; [(4)] (3) to provide information and advice
 311 to victims in order to assist such victims in exercising their rights
 312 throughout the criminal justice process; [(5)] (4) to direct victims to
 313 public and private agencies for service; [(6)] (5) to coordinate victim
 314 applications to the Office of Victim Services; and [(7)] (6) to assist
 315 victims in the processing of claims for restitution. For the purposes of
 316 this section, "victim" means "victim of crime", as defined in section 1-
 317 1k.

318 Sec. 8. (NEW) (*Effective October 1, 2009*) (a) For the purposes of this
 319 section, "minor" means any person under eighteen years of age.

320 (b) In any criminal proceeding involving an alleged sexual assault of
 321 a minor or in which a minor is expected to testify as a witness, the
 322 court shall take action to expedite the proceedings and the trial of such
 323 case shall have precedence over other cases with respect to the order of
 324 trial, except cases of the same type. Nothing in this subsection shall be
 325 construed to require that the proceedings be expedited if such
 326 expedited proceedings would not be in the best interests of the child.

327 (c) Upon a request for a continuance in such proceeding, the
 328 prosecuting authority shall file with the court an impact statement, on
 329 a form prescribed by the Office of the Chief Court Administrator, that
 330 specifies (1) whether the state agrees to the request for a continuance,
 331 (2) whether the minor or the minor's representative agrees to the
 332 request for a continuance, and (3) the effect, if any, that granting the
 333 continuance may have on the minor. The court shall consider and give
 334 weight to any possible adverse impact that a delay of the proceedings
 335 may have on the minor. If the court grants such continuance, it shall
 336 state, in open court and on the record, the reasons for its decision.

337 Sec. 9. Section 18-87j of the general statutes is repealed and the
338 following is substituted in lieu thereof (*Effective October 1, 2009*):

339 There is established a Criminal Justice Policy Advisory Commission
340 which shall be within the Office of Policy and Management for
341 administrative purposes only. The commission shall consist of the
342 undersecretary of the Criminal Justice Policy and Planning Division
343 within the Office of Policy and Management, the Chief Court
344 Administrator, the Commissioner of Correction, the Commissioner of
345 Public Safety, the Chief State's Attorney, the Chief Public Defender, the
346 Commissioner of Mental Health and Addiction Services, [and] the
347 chairperson of the Board of Pardons and Paroles and the Victim
348 Advocate, or their designees, the executive director of the Court
349 Support Services Division or other designee of the Chief Court
350 Administrator and the following members, each of whom shall be
351 appointed by the Governor: Three government officials, a police chief,
352 two persons representing offender and victim services within the
353 private community and two public members. In addition, the Labor
354 Commissioner and the Commissioner of Social Services, or their
355 designees, shall be members of the commission with authority to
356 deliberate and vote on matters concerning employment and
357 entitlement programs available to adult and juvenile offenders who
358 are reentering the community, and the Commissioner of Children and
359 Families and the Commissioner of Education, or their designees, shall
360 be members of the commission with authority to participate and vote
361 on matters concerning juvenile justice. The undersecretary of the
362 Criminal Justice Policy and Planning Division shall serve as
363 chairperson of the commission. The commission shall meet at such
364 times as it deems necessary.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2009</i>	54-208
Sec. 2	<i>October 1, 2009</i>	54-210
Sec. 3	<i>October 1, 2009</i>	54-211

Sec. 4	<i>October 1, 2009</i>	1-200
Sec. 5	<i>October 1, 2009</i>	1-210(b)(2)
Sec. 6	<i>October 1, 2009</i>	New section
Sec. 7	<i>October 1, 2010</i>	54-220(a)
Sec. 8	<i>October 1, 2009</i>	New section
Sec. 9	<i>October 1, 2009</i>	18-87j

Statement of Purpose:

To adopt proposals of the Office of the Victim Advocate providing compensation for burial expenses of homicide victims, creating a privacy exception to the Freedom of Information Act, establishing an account to fund victim service advocates, expediting criminal cases involving minors as victims or witnesses and including the Victim Advocate as a member of the Criminal Justice Policy Advisory Commission.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]